No. 6900

IN THE

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

LAKE VALLEY FARM PRODUCTS, INC., a corporation; AMALGAMATED DAIRY WORKERS, LOCAL INDUSTRIAL UNION No. 819, a voluntary unincorporated association; LAKE VIEW CO-OPERATIVE OF WATERTOWN, WISCONSIN, an agricultural cooperative corporation of the State of Wisconsin,

Plaintiffs-Appellants,

vs.

MILK WAGON DRIVERS UNION, LOCAL 753, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN AND HELPERS OF AMERICA, a voluntary unincorporated association; ROBERT G. FITCHIE, JAMES KENNEDY, STEVE SUMNER, FRED C. DAHMS, F. RAY BRYANT, ALVIN F. RICHARDS and JOSEPH L. PATTERSON,

Defendants-Appellees.

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

Honorable Philip L. Sullivan, Judge Presiding.

ANSWER OF APPELLANTS TO PETITION FOR REHEARING.

ARTHUR R. SEELIG,
Chicago, Illinois,
Counsel for Plaintiffs-Appellants.

U.S.C.C.A.

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IN THE

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MILK WAGON DRIVERS UNION, LOCAL 753, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN AND HELPERS OF AMERICA, a voluntary unincorporated association; ROBERT G. FITCHIE, JAMES KENNEDY, STEVE SUMNER, FRED C. DAHMS, F. RAY BRYANT, ALVIN F. RICHARDS and JOSEPH L. PATTERSON,

Defendants-Appellees.

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

Honorable Philip L. Sullivan, Judge Presiding.

ANSWER OF APPELLANTS TO PETITION FOR REHEARING.

Now comes Lake Valley Farm Products, Inc., a corporation; Amalgamated Dairy Workers, Local Industrial Union No. 819, a voluntary unincorporated association; Lake View Co-Operative of Watertown, Wisconsin, an agricultural cooperative corporation of the State of Wisconsin, appellants, by Arthur R. Seelig, their counsel, and in answer to the petition of the appellees for rehearing, respectfully state as follows:

Endorsed: Filed December 22, 1939. Frederick G. Campbell, Clerk.

And afterwards, to-wit: On the ninth day of January, 1940, the following further proceedings were had and entered of record, to-wit:

Tuesday, January 9, 1940.

Court met pursuant to adjournment.

Before:

Hon. Evan A. Evans, Circuit Judge.
Hon. William M. Sparks, Circuit Judge.
Hon. Walter E. Treanor, Circuit Judge.

Lake Valley Farm Products, Inc., *et al.*, *Plaintiffs-Appellants*, *vs.* Milk Wagon Drivers' Union, Local 753, *et al.*, *Defendants-Appellees.*	Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

6900

It is ordered by the Court that the Petition for a Rehearing of this cause, be, and the same is hereby denied.

And afterwards, to-wit: On the twelfth day of January, 1940, there was filed in the office of the Clerk of this Court, a Notice of Motion and Affidavit, which said Notice of Motion and Affidavit are in the words and figures following, to-wit:

State of Illinois, } ss.
County of Cook. }

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.

Lake Valley Farm Products, Inc., *et al.*, *Appellants,*
vs.
Milk Wagon Drivers Union, etc., *et al.*, *Appellees.*
} Cause No. 6900.

NOTICE OF MOTION AND AFFIDAVIT.

To: Arthur R. Seelig,
11 So. La Salle Street,
Chicago, Illinois,
Attorney for Appellants, "plaintiffs".

Please Take Notice that on the 12th day of January, A. D. 1940, we shall file in the office of the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, and ask that he present to the Court the motion of Milk Wagon Drivers Union, etc., et al, Appellees, asking the Court to stay the mandate of the Court in the aforesaid cause pending the disposition by the United States Supreme Court of a Petition to said Court for a Writ of Certiorari to the United States Circuit Court of Appeals for the Seventh Circuit, and in support of said motion, we offer the Affidavit of Abraham W. Brussell.

At which time and place you may appear if you so see fit.

David A. Riskind,
Abraham W. Brussell,
Attorneys for Appellees (Defendants).

Received a copy of the foregoing Notice of Motion and Affidavit therein referred to this ..... day of January, 1940.

Arthur R. Seelig,
by G. P. Braun,
Secretary,
Attorney for Appellants (Plaintiffs).

State of Illinois, }
County of Cook. } ss.

AFFIDAVIT.

Abraham W. Brussell being first duly sworn makes his oath, deposes and says that he is one of the attorneys of record for the Milk Wagon Drivers Union of Chicago, Local 753, etc., et al, Appellees in this Court, defendants in the Court below; that he is entrusted with the duty of conducting the appeal proceedings in this cause on behalf of said Appellees; that after being informed of the order of this court dated January 9, 1940, denying the Appellees' Petition for re-hearing of the judgment and order of this Court of November 23, 1939, he communicated said fact to the Appellees; that said Appellees have requested and authorized your Affiant to proceed with the preparation and filing of a Petition in the United States Supreme Court for a Writ of Certiorari from said Court to this Honorable Court; that your Affiant is ready to proceed with the preparation of the record and the petition and is filing this Motion to stay mandate of this Court in accordance with the rule in such cases made and provided; that the order and judgment of this Court of November 23, 1939, reversed the findings of the Master and the findings and decree of the trial Court herein.

Your Affiant in his opinion believes that he will be able to complete the proceedings on Certiorari and cause the Petition therefor to be filed with the Clerk of the Supreme Court of the United States within, approximately, one month and that your Affiant will proceed with said proceedings with due diligence and without delay.

Wherefore, your Affiant respectfully prays that this Court grant motion of Appellees herein to stay mandate of this Court pending disposition by the United States Supreme Court of Petition to said Court for a Writ of Certiorari to this Honorable Court.

Furthermore, Affiant sayeth not.

Abraham W. Brussell.

Subscribed and sworn to before me this 12th day of January, A. D. 1940.

Louis H. Kohn, Jr.,
Notary Public.

(Seal)

State of Illinois, } ss.
County of Cook. }

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.

Lake Valley Farm Products, Inc., *et al.*,
Appellants,
vs.
Milk Wagon Drivers Union, etc., *et al.*,
Appellees.
} Cause No. 6900.

NOTICE OF MOTION AND AFFIDAVIT.

To: Arthur R. Seelig,
11 So. La Salle Street,
Chicago, Illinois,
Attorney for Appellants, "plaintiffs".

Please Take Notice that on the 12th day of January, A. D. 1940, we shall file in the office of the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, and ask that he present to the Court the motion of Milk Wagon Drivers Union, etc., et al, Appellees, asking the Court to stay the mandate of the Court in the aforesaid cause pending the disposition by the United States Supreme Court of a Petition to said Court for a Writ of Certiorari to the United States Circuit Court of Appeals for the Seventh Circuit, and in support of said motion, we offer the Affidavit of Abraham W. Brussell.

At which time and place you may appear if you so see fit.

David A. Riskind,
Abraham W. Brussell,
Attorneys for Appellees (Defendants).

Received a copy of the foregoing Notice of Motion and Affidavit therein referred to this ..... day of January, 1940.

Arthur R. Seelig,
by G. P. Braun,
Secretary,
Attorney for Appellants (Plaintiffs).

State of Illinois, }
County of Cook. } ss.

AFFIDAVIT.

Abraham W. Brussell being first duly sworn makes his oath, deposes and says that he is one of the attorneys of record for the Milk Wagon Drivers Union of Chicago, Local 753, etc., et al, Appellees in this Court, defendants in the Court below; that he is entrusted with the duty of conducting the appeal proceedings in this cause on behalf of said Appellees; that after being informed of the order of this court dated January 9, 1940, denying the Appellees' Petition for re-hearing of the judgment and order of this Court of November 23, 1939, he communicated said fact to the Appellees; that said Appellees have requested and authorized your Affiant to proceed with the preparation and filing of a Petition in the United States Supreme Court for a Writ of Certiorari from said Court to this Honorable Court; that your Affiant is ready to proceed with the preparation of the record and the petition and is filing this Motion to stay mandate of this Court in accordance with the rule in such cases made and provided; that the order and judgment of this Court of November 23, 1939, reversed the findings of the Master and the findings and decree of the trial Court herein.

Your Affiant in his opinion believes that he will be able to complete the proceedings on Certiorari and cause the Petition therefor to be filed with the Clerk of the Supreme Court of the United States within, approximately, one month and that your Affiant will proceed with said proceedings with due diligence and without delay.

Wherefore, your Affiant respectfully prays that this Court grant motion of Appellees herein to stay mandate of this Court pending disposition by the United States Supreme Court of Petition to said Court for a Writ of Certiorari to this Honorable Court.

Furthermore, Affiant sayeth not.

Abraham W. Brussell.

Subscribed and sworn to before me this 12th day of January, A. D. 1940.

Louis H. Kohn, Jr.,
Notary Public.

(Seal)

State of Illinois, } ss.
County of Cook. }

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.

Lake Valley Farm Products, Inc., *et al.*
vs.
Milk Wagon Drivers Union, etc., *et al.*
} Cause No. 6900.

MOTION.

Now come Milk Wagon Drivers Union of Chicago, Local 753, etc., et al, Appellees, (Defendants) by David A. Riskind and Abraham W. Brussell, their attorneys, and move the court to stay mandate in said cause pending the disposition by the United States Supreme Court of a Petition to said Court for a Writ of Certiorari from said Court to the United States Circuit Court of Appeals for the Seventh Circuit.

And in support thereof, Appellees offer the Affidavit of Abraham W. Brussell.

David A. Riskind,
Abraham W. Brussell,
Attorneys for Appellees (Def.).

Endorsed: Filed January 12, 1940. Frederick G. Campbell, Clerk.

And afterwards, to-wit: On the eighteenth day of January, 1940, the following further proceedings were had and entered of record, to-wit:

Tuesday, January 18, 1940.

Court met pursuant to adjournment.

Before:

Hon. William M. Sparks, Circuit Judge.

Lake Valley Farm Products, Inc., *et al.*, *Plaintiffs-Appellants*, vs. Milk Wagon Drivers' Union, Local 753, *et al.*, *Defendants-Appellants*. } Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

6900

On motion of counsel for appellants, It is ordered that the Mandate of this Court in this cause be, and it is hereby stayed pursuant to Rule 25 of the Rules of this Court.

UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

I, Frederick G. Campbell, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages, numbered from 357 to 401, inclusive, contain a true copy of the proceedings had and papers filed, excepting briefs of counsel, stipulation as to printing record, stipulation and orders extending time for filing briefs, in the case of:

Lake Valley Farm Products, Inc., a corporation; Lake View Cooperative of Watertown, Wisconsin, etc., *et al.*, *Plaintiffs-Appellants,*

vs.

Milk Wagon Drivers' Union, Local 753, *et al.*, *Defendants-Appellees,*

No. 6900, October Term, 1939, as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 26th day of January, A. D. 1940.

Frederick G. Campbell,
(Seal) *Clerk of the United States Circuit Court of Appeals for the Seventh Circuit.*

SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed April 1, 1940

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.